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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,843	01/16/2004	Wayne W. Loewen	AP04-02	1842
25759	7590	04/07/2005	EXAMINER	
JOHN J. ELNITSKI, JR. 225 A SNOWBIRD LANE BELLEFONTE, PA 16823			MILLER, JONATHAN R	
			ART UNIT	PAPER NUMBER
			3653	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/707,843

Applicant(s)

LOEWEN, WAYNE W.

Examiner

Jonathan R. Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040116.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 1 and 13 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. A pH value of between 4 – 8 and a particle size critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). Examiner contends that Applicant's disclosure teaches that the pH value of the water is between 4 and 8, and that the particle size is or below 1/16". Without these critical steps the invention is not enabled

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 – 5 and 13 – 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Crites. The reference discloses a method of collecting gold, comprising: flowing water over a gold collecting medium located in a sluice, in order to induce a positive surface charge on the gold collecting medium, feeding gold laden material into the sluice with the flowing water to induce a negative surface charge on gold particles of the gold laden material and create a slurry of gold laden material and water, setting the flow rate of the slurry into the sluice such that the

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gold particles are attracted to the gold collecting medium, and collecting the gold particles from the gold collecting medium that were attracted to gold collecting medium (col. 3, lines 27+).

5. With regards to claim 2, the reference further inherently discloses a pH value of between 3 and 9. Water has a pH of about 7 inherently.

6. With regards to claim 3, the reference further discloses the gold particles are one-sixteenth of inch or less in size (col. 6, lines 5+).

7. With regards to claim 4, the reference further discloses the gold collecting medium is a plastic material (col. 3, lines 46+).

8. With regards to claim 5, the reference further discloses the gold collecting medium is a vinyl material (col. 3, lines 46+).

9. With regards to claim 13, the reference further discloses a sluice having an input end and output end, a water input directed into the input end of the sluice and a gold collecting medium in said sluice, said gold collecting medium being of a material which incurs a positive surface charge when immersed in water (col. 3, lines 27+; Fig. 1).

10. With regards to claim 14, the reference further discloses a hopper at said input end of said sluice (Fig. 1).

With regards to claim 15, the reference further inherently discloses a gate valve between said hopper and said sluice to control flow into said sluice.

11. With regards to claim 16, the reference further discloses the gold collecting medium is a plastic material (col. 3, lines 46+).

12. With regards to claim 17, the reference further discloses the gold collecting medium is a vinyl material (col. 3, lines 46+).

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13. Claims 1 – 13 and 16 - 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Plath. The reference discloses a method of collecting gold, comprising: flowing water over a gold collecting medium located in a sluice, in order to induce a positive surface charge on the gold collecting medium, feeding gold laden material into the sluice with the flowing water to induce a negative surface charge on gold particles of the gold laden material and create a slurry of gold laden material and water, setting the flow rate of the slurry into the sluice such that the gold particles are attracted to the gold collecting medium, and collecting the gold particles from the gold collecting medium that were attracted to gold collecting medium (col. 1, lines 65+).

14. With regards to claim 2, the reference further inherently discloses a pH value of between 3 and 9. Water has a pH of about 7 inherently.

15. With regards to claim 3, the reference further inherently discloses the gold particles are one-sixteenth of inch or less in size (col. 2, lines 6+).

16. With regards to claim 4, 8 and 12, the reference further discloses the gold collecting medium is a plastic material (col. 2, lines 43+).

17. With regards to claim 5, 7 and 11, the reference further discloses the gold collecting medium is a vinyl material (col. 2, lines 43+).

18. With regards to claim 6, 10, the reference further discloses the gold collecting medium includes ribs and grooves between the ribs (col. 2, lines 54+).

19. With regards to claim 9, the reference further discloses a pH value of between 3 and 9 and the gold particles are one-sixteenth of inch or less in size (col. 2, lines 6+). Water has a pH of about 7 inherently.

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20. With regards to claim 13, the reference further discloses a sluice having an input end and output end, a water input directed into the input end of the sluice and a gold collecting medium in said sluice, said gold collecting medium being of a material which incurs a positive surface charge when immersed in water (col. 1, lines 65+). Examiner contends that the polymeric sheet will inherently incur a positive surface charge when immersed in water.

21. With regards to claim 16, the reference further discloses the gold collecting medium is a plastic material (col. 2, lines 43+).

22. With regards to claim 17, the reference further discloses the gold collecting medium is a vinyl material.

23. With regards to claim 18, the reference further discloses the gold collecting medium includes ribs and grooves between the ribs (col. 2, lines 54+).

24. With regards to claim 19, the reference further discloses a hopper at said input end of said sluice and the gold collecting medium includes ribs and grooves between the ribs (col. 2, lines 54+).

25. With regards to claim 20, the reference further discloses the gold collecting medium is a vinyl material (col. 2, lines 43+).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan R. Miller whose telephone number is (703) 305-5778. The examiner can normally be reached on M-F: 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jrm

  
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